

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

- - - - - x
UNITED STATES OF AMERICA : Criminal No. 13-02546-BPG
:
v. :
: GEORGE SYLVESTER FRINK, JR., :
: Defendant. : October 30, 2013
:
- - - - - x Baltimore, Maryland

DETENTION HEARING

BEFORE THE HONORABLE BETH P. GESNER, Judge

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I N D E X

	<u>Page</u>
Preliminary Matters	3
<u>Arguments:</u>	
By Richard Kay, Esq. Attorney for the Government	4
Rebuttal	18
By Ivan Bates, Esq. Attorney for the Defendant	12
Findings - Judge Beth P. Gesner	21

KEYNOTE: "---" Indicates inaudible in transcript.
 "*" Indicates phonetically spelled.

1 P R O C E E D I N G S

2 THE COURT: Morning. You may be seated.

3 MR. KAY: Good morning, Your Honor.

4 THE COURT: Mr. Kay.

5 MR. KAY: Your Honor, this is the case of United
6 States versus George Sylvester Frink, Jr. It's F-r-i-n-k.
7 The Case Number is 13-2546-BPG. Now we're here this morning,
8 Your Honor, for the purposes of a Detention Hearing.

9 We had an initial appearance on Monday. At that
10 time there was some information provided to the Pretrial
11 Services Officer about the Defendant's employment that the
12 Government asked if we could have time to look into.

13 We have looked into that, Your Honor, and
14 apparently the Defendant has also submitted some pay stubs
15 from Gold's Gym, where he says he works, submitted those to
16 the Pretrial Services Officer.

17 But, Your Honor, one of the -- I'm sorry, Richard
18 Kay for the United States. I forgot to say that for the
19 record.

20 THE COURT: Good morning.

21 MR. KAY: I'm sorry, Your Honor. Maybe Mr. Ivan
22 Bates will introduce himself as well.

23 THE COURT: Yes, good morning Mr. Bates. Mr. Frink,
24 good morning.

25 MR. BATES: Good morning, Your Honor. Ivan Bates

1 on behalf of Mr. Frink to the right of me at the trial table.

2 THE COURT: Thank you.

3 MR. BATES: Thank you.

4 MR. KAY: I'm sorry, Your Honor.

5 THE COURT: I am all about getting to business.

6 MR. KAY: Thank you, Your Honor.

7 Again, the point was we wanted to investigate this
8 employment at this place called Gold's Gym. One of the Case
9 Agents, Agent Hostelly* went to Gold's Gym yesterday and met
10 with the Operations Manager, a Mr. Ty Haynes, H-a-y-n-e-s, at
11 the Gold's Gym.

12 Mr. Haynes said that he's the Operations Manager,
13 he's there every single day. He runs the place, he knows who
14 all the employees are, he knows who comes and goes, he knows
15 the customers, et cetera. And, Your Honor, he indicated that
16 there's no "George Frink" who works there. There is no
17 "George Frink" who is on the payroll. There is no "Frink"
18 who works there. There's not even a "George" who works
19 there.

20 So I think that that runs to credibility on that
21 specific point.

22 THE DEFENDANT: He know me.

23 MR. KAY: Your Honor, the second thing we wish to
24 bring up is this. We have a picture of the Defendant's
25 residence. He reported that to the Pretrial Services Officer

1 as 2 Phoebe Court, that's P-h-o-e-b-e Court, Phoebe Court in
2 Randallstown. And I -- this is just for the Court, I have a
3 -- just a second.

4 (Pause.)

5 MR. KAY: -- that he disclosed to the Pretrial
6 Services Officer. In the Pretrial Services Officer's report
7 there's no second residence that's disclosed. I asked
8 Ms. Weller whether the Defendant had disclosed that he has,
9 currently has a second residence and he does, Your Honor. He
10 did not report that to the Pretrial Services Officer and it's
11 not in the Pretrial Services Officer's report.

12 That residence is located at 255 Lou Gaine* Court
13 in, I believe in Pikesville. Your Honor, I meant to bring a
14 picture of that and I did not bring that with me. But it's a
15 2-story apartment. He rented that apartment in July of this
16 year. I have a copy of the application that he submitted to
17 the --- apartments. I'll provide that to the Court as
18 Exhibit 3 to this proceeding.

19 Your Honor, in that application for residence you
20 can see that it, his name is at the top: George Frink, it
21 has his birthday, social security number. And he's also
22 indicated that his current address is 2 Phoebe Court, that's
23 the address that he disclosed to the Pretrial Services
24 Officer.

25 He indicates the reason for moving, the reason for

1 moving is on about the middle of the page over towards the
2 right as "separation". Apparently separation from his wife.
3 He indicates on this application, Your Honor, two places of
4 employment. One is Pimlico Motors and the other is
5 Instructional Fitness, manager it looks like.

6 It is my understanding that Instructional Fitness
7 could be an official name or a D/B/A for Gold's Gym. It's my
8 understanding it is possible that that is the same place as
9 Gold's Gym where the Operations Manager said that he does not
10 work.

11 THE COURT: Is it the same address? It lists an
12 address there.

13 MR. KAY: I can't read the address, Your Honor. It
14 looks like Hurt --

15 THE COURT: --- Lane or something.

16 MR. KAY: -- Lane. I think he gave the Gold's Gym
17 address as -- perhaps the Pretrial Services Officer has that.

18 MS. WELLER: Yes, the address that I had found for
19 Gold's Gym, and it was also on the pay stubs provided to the
20 Pretrial Services Office was also very hard to read but it
21 was South Dolfield Road in Owings Mills.

22 THE COURT: Okay.

23 MR. KAY: And Your Honor, just to go back to that
24 point, Mr. Haynes, who works there every day, indicated there
25 is no George Frink on the payroll and he offered to show that

1 to the Agent, that he could look at it if he wanted to. And
2 there was no George Frink who works there.

3 The only other thing I would point out with regard
4 to the application itself, Your Honor, on Exhibit 3 is
5 towards the bottom it has a 2000 Cadillac Escalade, black.
6 That's the vehicle in which the 15 kilograms of cocaine were
7 found by the agents.

8 Another thing I wish to point out, Your Honor, is
9 in support of this application for leasing 255 Lou Gaine*
10 Court he did submit pay stubs from Ramey Brothers and also a
11 letter from Gold's Gym. And at the top of that letter it
12 indicates "Instructional Fitness Training Facility". So
13 that's the information that I have with regard to whether
14 it's the same place or not. It indicates the address there
15 is South Dolfield Road and it's very possible that he just
16 miss-spelled it or wrote it wrong on the application, cause
17 it's kind of hard to read.

18 But that letter, Your Honor, just to bring this to
19 a close, just to this application, this letter, it's about
20 the fifth page in, is dated July 19, 2013. And it's entitled
21 "Verification of Employment for George S. Frink, Jr.". And
22 it says that at that point he was currently an employee of
23 that organization, which as I pointed out earlier was not
24 corroborated by the Operations Manager.

25 The other thing I would point out about this

1 letter, Your Honor, is that it's signed by someone named Tyra
2 Hargis. That's T-y-r-a, last name H-a-r-g-i-s, as the Human
3 Resource Manager at Gold's Gym. I had the agents take a look
4 to see who Tyra Hargis is, whether she actually works at
5 Gold's Gym or not. And they ran her through Maryland Wage
6 Records and learned that she used to work for Ramey Brothers.
7 According to the records, the State records, she was
8 discharged from Ramey Brothers in May of 2012, so a year and
9 a half ago. And that she filed for unemployment and that
10 it's my understanding that she's currently collecting
11 unemployment and has been ever since May of 2012.

12 So I think that that, the point of that, Your
13 Honor, is that she clearly was not working at Gold's Gym at
14 the time that this letter was written in support of the
15 Defendant's supposed employment there.

16 Your Honor, the Government is moving for detention
17 pursuant to 18 U.S.C. Section 3142(f)(1)(C) which is as the
18 Court is aware affords a presumption that no condition or
19 accommodation of conditions will reasonably assure the safety
20 of the community or the appearance in court by the defendant
21 if the Court finds probable cause to believe the Defendant
22 committed the serious offense that's charged in the
23 Complaint.

24 We submit that the affidavit that is attached to
25 the Complaint here establishes that the Defendant, at the

1 time that he was arrested, his vehicle, the 2008 Cadillac
2 Escalade had 15 kilograms of cocaine inside. The, I don't
3 recall whether it states this in the affidavit or not, Your
4 Honor, but there were two groups of cocaine in the car.
5 There was a bucket in the back seat that had about seven
6 kilograms in the back seat. And then the other seven
7 kilograms were contained or concealed in a secret compartment
8 that was professionally installed with hydraulic lifters in
9 the console. The agents had to pry the thing open in order
10 to get the kilograms. But they weren't in there by accident,
11 they were clearly in there in a secret compartment.

12 And I think this, it's not the type of vehicle that
13 someone would sell. You don't put a secret compartment in a
14 car that you're going to sell. And his job supposedly is
15 buying and selling cars for Ramey Brothers and Pimlico
16 Motors.

17 So I think that the point of that, Your Honor, is
18 that the affidavit does establish probably cause to believe
19 that the serious offense that's charged in the Complaint was
20 committed by this Defendant, which would afford us the
21 presumption in this case.

22 I can go on, Your Honor, if you like?

23 THE COURT: No, unless you have something else to
24 address?

25 MR. KAY: I was just going to summarize more of the

1 points, Your Honor, under 3142(g), Your Honor, the points
2 that the Court is to look at in such a hearing. And one is
3 the nature and circumstances of the offense which here is a
4 very serious offense. This is not a street level drug case,
5 this is a 15 kilogram, very high level supplier of drugs to
6 Baltimore and the Baltimore area. So it's a very, very
7 serious offense.

8 Also, the history with regard to the weight of the
9 evidence, the strength of the evidence, here I think it could
10 not be stronger, Your Honor, because the drugs were found in
11 the Defendant's car and as I said, half of them were
12 concealed in a secret compartment.

13 As to the history and the characteristics of the
14 Defendant, he does have a prior conviction for a handgun
15 offense. And I noted in the initial appearance that it's an
16 old, old conviction, it's 16 years old. But I did want to
17 bring that to the Court's attention because it does run to
18 possible danger to the community. And the Court can
19 certainly consider that.

20 It is also important as to the history and
21 characteristics of the person, Your Honor, that he apparently
22 lied to the Pretrial Services Officer not only about his
23 employment but about his residence. He didn't disclose the
24 second residence to the Pretrial Services Officer and he
25 apparently lied about his employment.

1 He submitted documents that are apparently false
2 about his employment at Gold's Gym to the Pretrial Services
3 Officer, and I think that goes to his credibility and trust.

4 And Your Honor, the heart of this proceeding,
5 indeed at the heart of the heart of this type of proceeding
6 is one about trust. It's about credibility. It's about
7 whether you can rely on the Defendant to be where he's
8 supposed to be when he's supposed to be there. And he will
9 not do anything, commit another crime, or cause any kind of
10 danger to the community.

11 And I think, Your Honor, that all of these things,
12 these factors run to that single heart of this hearing. I
13 don't think that there's an element of trust that supports a
14 release of this Defendant.

15 Your Honor, I think that the other factor that I
16 just wanted to point out is that this charge, as we pointed
17 out, has a mandatory minimum sentence of 10 years, a maximum
18 of life imprisonment. Given the strength of the evidence
19 here I think it is also worthwhile to consider that it's hard
20 to imagine with that kind of evidence someone sticking around
21 either to supposedly perform administrative duties at a fake
22 job at Gold's Gym or to stick around for a trial.

23 The Government submits that the Defendant should be
24 detained.

25 THE COURT: All right. Thank you, Mr. Kay.

1 Ms. Weller, do you have pay stubs that were
2 submitted to you?

3 MS. WELLER: I do have the copies, I believe
4 Mr. Bates has copies that are more legible than I do.

5 THE COURT: Okay.

6 MR. BATES: May I approach, Your Honor?

7 THE COURT: Sure.

8 (Pause.)

9 THE COURT: Thank you.

10 (Pause.)

11 THE COURT: Mr. Bates, I am happy to hear from you.

12 MR. BATES: Yes, thank you, Your Honor.

13 Your Honor, I think one of the things that's very
14 interesting to me is that the Government began to focus on
15 the Gold's Gym issue. They don't say anything about
16 confirming the employment of Ramey Brothers where he's been
17 for a mighty long time.

18 They don't say anything about his substantial ties
19 to the community: his wife, his children, his mother who is
20 here in the courtroom with him, Your Honor.

21 One of the things that's very interesting, in
22 reference to Gold's Gym, they talked to an individual, he
23 says he does not know my client. But we have pay stubs.
24 It's not just one pay stub, it's multiple pay stubs. We
25 would ask where is this individual? Did they ask to look at

1 the payroll history of Gold's Gym? Or anything like that.

2 We have the pay stubs. My client does the payroll
3 for Gold's Gym. He is more or less a contractual individual
4 who does the payroll. Comes in late at night, does what he
5 needs to do and doesn't necessarily have the interaction with
6 everybody there, has more of a relationship with the owner of
7 the Gold's Gym, Your Honor. And that's something that's very
8 important --

9 THE COURT: Who's the owner?

10 MR. BATES: Mr. Gerald Jones, Your Honor.

11 THE COURT: Okay.

12 MR. BATES: That's the individual that he would
13 have more of a contact and a relationship with, Your Honor.

14 And based on that, Your Honor, he is an individual
15 that is working. One of the things that's also very
16 important to sit down and look at is this apartment 225
17 (sic.), this apartment that the Government talks about.

18 One of the things is that my client and his wife
19 are going through some marital issues. My client had got an
20 apartment because he was going to separate, he was going to
21 leave his wife. However, they sat down, they talked, and
22 they've actually worked things out, Your Honor. They are
23 actually back together.

24 The problem is he still entered into that lease but
25 he doesn't live there, Your Honor. He does not stay there,

1 he does not live there. He still would stay with his wife
2 and his family at 8 (sic.) Phoebe Court.

3 THE COURT: Is he still paying rent there?

4 THE DEFENDANT: Yes.

5 MR. BATES: Yes, he still does pay rent because he
6 still has the lease, Your Honor. And so he still has entered
7 into that contract, Your Honor. But he does not stay there.
8 Even when you sit down and you look at the first page of the
9 application he put "separation". So that sits down, and this
10 is the rental application, Your Honor.

11 That sits down and tells that he admitted he was
12 separated. There were issues. One of the problems that you
13 do have, the separation, sometimes couples go their own
14 separate ways and they're finished. And then sometimes
15 couples can work things out and get back together, Your
16 Honor.

17 That does not mean there are no observations of him
18 coming and going at that particular apartment, Your Honor.
19 But what it does mean is that him and his wife have worked it
20 out. They've sat down, he's given the truthful information
21 about 2 Phoebe Court in Randallstown where he was moving
22 from, Your Honor.

23 And so that once again corroborates and shows that
24 this is a man who can be trusted, Your Honor.

25 Now, in reference to the Cadillac Escalade, I do

1 not believe the Cadillac Escalade was registered to anybody.
2 My understanding is that there were dealer tags associated
3 with Mr. Frink's business in terms of a vehicle that would be
4 sold, Your Honor. However, I don't believe that was
5 registered. Mr. Frink also had a business where he sold
6 vehicles as well, Your Honor. And that's important to know
7 as well.

8 But the other things that when you sit down and
9 look at the case, I have not heard the Government say that he
10 was a leader in any way, shape, form, or fashion, Your Honor.
11 I have not heard the Government say that there were hundreds
12 of thousands of dollars that they recovered in this
13 particular case, Your Honor.

14 I have not heard the Government say that there were
15 any weapons recovered whatsoever, Your Honor. I have not
16 heard the Government say that they saw a sale, that they
17 recovered a sale, that they knew anything about a potential
18 sale. Anything whatsoever. They seen an individual going in
19 and out a vehicle and they sit down and they find, I thought
20 it was 14 bricks of now which they said it's 15 kilos.

21 So in terms of the math I thought each particular
22 brick was a particular kilo, so to me it would be 14 kilos
23 and not 15. And I only say that based on terms of the
24 minimum mandatory issues, Your Honor.

25 The also thing that's important to look at in terms

1 of a minimum mandatory, Your Honor, I believe my client would
2 qualify for the safety valve. If he qualifies for the safety
3 valve he's not facing a 10-year minimum mandatory, Your
4 Honor. He's facing a sentence that would be underneath of
5 the minimum mandatory at that moment in time, Your Honor.

6 This is a man that does work. This is a man that's
7 provided the pay stubs. This is a man that has a family that
8 he cares for. His wife is here, she's willing to act as a
9 third-party custodian. His mother's here. He has the
10 support of his family, he has the support of his children.
11 He is not going to flee the jurisdiction, Your Honor. He's
12 even sat down and retained counsel in that regard, Your
13 Honor.

14 We would ask the Court to file the Pretrial
15 recommendation that he be released on his own recognizance.
16 And if the Court is not comfortable with him being released
17 on his own recognizance, we would ask that he be released on
18 electronic monitoring, Your Honor. That way if any other
19 investigation needed to be done could definitely be done,
20 Your Honor.

21 When you sit down and you look at the entire
22 Government's case, they have an individual that's going,
23 allegedly going in and out of a vehicle and they find drugs
24 within this vehicle. We say the vehicle is not my client's
25 vehicle. It's one of the vehicles that were on the -- it was

1 there to be sold, Your Honor.

2 We do recognize the issues and we do recognize that
3 the Court must believe the facts as true. We have a number
4 of other arguments and issues that Mr. Ravenell will put
5 forth, Your Honor. However, in terms of when you look at the
6 entire picture, the simple fact that he does have the
7 opportunity it looks like to have the safety valve. The
8 simple fact that he has not had any criminal activity
9 connection since 1998, Your Honor, 16 years, speaks volumes
10 of this young man.

11 The simple fact that when you also sit down and
12 look at his application he puts his 2 Phoebe Court, he puts
13 separation, he put Pimlico Motors, and he also put Gold's
14 Gym. So this is something that he did not just come up with.
15 This is something that he's been talking about since July
16 until this time period. And the simple fact we've also
17 provided pay stubs.

18 If anything, Your Honor, we feel that the
19 Government spoke to this one individual. We provided pay
20 stubs. We feel if anything that's a wash and we can sit down
21 and look at the employment history of Ramey Brothers, Your
22 Honor.

23 My client is not a flight risk. My client is not a
24 threat to the community whatsoever, Your Honor. And based on
25 that and the simple fact that they do not say any leadership

1 role, we feel that we've, I've rebutted the Government's
2 presumption and we would ask that he be released.

3 Thank you.

4 THE COURT: Thank you.

5 Do you have anything else, Mr. Kay?

6 MR. KAY: Just two very brief things. One, as to
7 the rent for the 255 Lou Gaine* Court, it indicates on the
8 application that it's \$1,678 a month. That's close to \$1700
9 a month, Your Honor. That's not disclosed -- again, on the
10 Pretrial Services report he's required to provide information
11 that's critical to this Court. There's no indication of that
12 \$1,700 a month liability on this Pretrial Services report at
13 all.

14 And the other thing, Your Honor, is that apparently
15 Mr. Bates just indicated that he has also another side
16 business of buying and selling cars on his own that is
17 separate from Ramey Brothers, unless I misunderstood
18 Mr. Bates. And that also was not disclosed to the Pretrial
19 Services Officer. It is certainly not contained in this
20 report.

21 Thank you, Your Honor.

22 THE COURT: Thank you, Mr. Kay. Ms. Weller, thank
23 you for your report. Did you have anything to add?

24 MS. WELLER: Yes, Your Honor. The report that was
25 initially submitted, due to the additional information and

1 the discrepancies in residence and employment, Pretrial
2 Services would maintain the recommendation that the Defendant
3 be released on conditions that are set out in the report.
4 But at this time we would request that if Your Honor is
5 inclined to release him that he be on 24-hour lock down on
6 location monitoring until we can sort out those
7 discrepancies.

8 THE COURT: Okay. Thank you.

9 All right. Previously, maybe I didn't say, I did
10 read the Pretrial report. Of course I had read the Criminal
11 Complaint and so I'm familiar with that. And I appreciate
12 the argument of counsel.

13 The Government of course is entitled to seek
14 detention given the nature of the charge, here that is
15 possession with intent to distribute cocaine, pursuant to
16 Title 21, Section 841. The maximum penalty is noted as life
17 imprisonment with a minimum mandatory of 10 years.

18 The Government also enjoys the presumption in favor
19 of detention if I find probable cause, which I clearly do.
20 The weight and nature of the evidence here is extremely
21 substantial and more than adequately addresses a probable
22 cause standard.

23 Pursuant to the presumption, detention is
24 appropriate unless I can find facts and circumstances which
25 rebut presumption. When I read the Pretrial report and

1 Pretrial's recommendation I was of the mind that perhaps
2 conditions of release could be fashioned.

3 As Mr. Bates points out, Mr. Frink enjoys long-
4 standing ties to the community, support of his family who are
5 here today, and in the scheme of things a not significant
6 prior criminal record. Which as Mr. Kay pointed out was a
7 fairly old handgun violation.

8 So on those facts conditions of release could
9 perhaps be fashioned. But on the current record before me,
10 however, I think there is clear evidence of deception with
11 Pretrial Services. I understand that Mr. Bates maintains
12 that these pay stubs generate a factual issue.

13 Let me just say that based on the evidence that I
14 have before me I think that Pretrial was not provided with
15 full information, most notably with respect to the second
16 residence. Whether he lives there or not that is a
17 substantial portion of money that apparently has been being
18 paid since July which impacts a whole number of different
19 evaluations in the Pretrial report.

20 And I think, as noted, candor to the Court, candor
21 to Pretrial Services, and trust really is at the core of
22 determining whether or not release conditions can be set.
23 And when you start with the presumption and add to that
24 presumption clear evidence of deception, that presumption
25 cannot be rebutted on those facts.

1 In terms of the nature of the offense and
2 circumstance of the offense, of course in any case, narcotics
3 case, the Government enjoys the presumption. Here let me say
4 that those nature and circumstances I think also bolster the
5 presumption. There is clear evidence of a high level, high
6 volume cocaine transactions and business ongoing.
7 Sophisticated nature of the crime given the secret
8 compartment involved.

9 Let me note that on the application for residency,
10 Mr. Frink listed -- I don't have the license plate, but he
11 listed a 2008 Cadillac Escalade, black. So a notion that
12 that is some random vehicle is less compelling in light of
13 that independent admission with respect to the connection
14 with the vehicle.

15 And, as I said, but given those facts and
16 circumstances, of course the significant penalties offer
17 incentive to flee, particularly to one who has not been
18 significantly involved in the criminal justice system in the
19 past.

20 So based on all of those facts and circumstances, I
21 do not find that the presumption has been rebutted, either
22 with respect to danger or flight.

23 And I do find by clear and convincing evidence that
24 there is no condition or combination of conditions that will
25 basically insure either Defendant's presence or the

1 community's safety.

2 And so for those reasons, based on the current
3 state of the record, I am entering an order of detention.

4 I think we need to set a preliminary hearing date.

5 THE CLERK: November 11th.

6 THE COURT: November 11th at 12:00 o'clock for a
7 preliminary hearing?

8 MR. KAY: Your Honor, I have that as a holiday for
9 the Government.

10 THE COURT: Is that Monday? Is that a Monday?

11 THE CLERK: Yes.

12 THE COURT: So we'll go to Tuesday --

13 MR. KAY: Okay. Fine, Your Honor.

14 THE COURT: -- November 12th at 12:00 o'clock. And
15 if we don't need to proceed on that day let us know, Mr. Kay.

16 MR. KAY: We will, Your Honor. Thank you.

17 MR. BATES: Your Honor, if we are able to actually
18 have the gentleman from Gold's Gym come in here and say in
19 fact that my client does work there, would the Court
20 entertain the opportunity to have a hearing?

21 THE COURT: If you have new evidence I will
22 certainly always hear what you have.

23 MR. BATES: Yes.

24 THE COURT: I think I've indicated a number of
25 different factors, that's one of them. And certainly if you

1 acquire any new evidence I would be happy to have you present
2 it.

3 MR. BATES: Thank you, Your Honor.

4 THE COURT: Anything else?

5 MR. KAY: Nothing from the Government. Thank you,
6 Your Honor.

7 THE COURT: Thank you.

8 THE CLERK: All rise. This Honorable Court now
9 stands in recess.

10 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the duplicated electronic sound recording of the proceedings in the above-entitled matter.

/s/ Jacqueline M. McFarland
Jacqueline M. McFarland
Certified Transcriber
Certificate No.: CET**227

November 7, 2013
Date